IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE: PHILIPS RECALLED CPAP,)
BI-LEVEL PAP, AND MECHANICAL	
VENTILATION PRODUCTS LITIGATION) Master Docket: Misc. No. 21-1230
)) MDL No. 3014
This Document Relates to:)
Nathaniel D. Roberts, 2:23-cv-01027)
	* * * * *

MEMORANDUM OF THE PHILIPS DEFENDANTS¹ IN OPPOSITION TO PLAINTIFF NATHANIEL ROBERTS' RENEWED MOTION TO REMAND

The Court should deny Plaintiff's Renewed Motion to Remand, *Roberts v. Philips Respironics, Inc., et al.*, No. 2:23-CV-01027, ECF No. 22 ("Renewed Motion"), and decline to remand Plaintiff's case for two primary reasons. *First*, because Plaintiff failed to file his motion to remand with this Court pursuant to PTO-22, there is no motion to remand pending before this Court for consideration—"renewed" or otherwise. ECF No. 701 *modified by* ECF No. 1901. *Second*, and as described further in the Philips Defendants' Opposition to Plaintiff's Motion to Remand filed in *Roberts v. Philips Respironics Inc., et al.*, 1:23-CV-00201-MV-KK (D. New Mexico) ("New Mexico Action"), ECF No. 14 ("Opposition"), which is incorporated herein, this Court has federal diversity jurisdiction over Plaintiff's claims because the parties are completely diverse and Plaintiff's claims for "serious personal injury," "disability," punitive damages, and attorneys' fees demonstrate an amount in controversy in excess of \$75,000. Opposition at 11-16;

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¹ The Philips Defendants are defined as Koninklijke Philips N.V., Philips North America LLC, Philips RS North America LLC, Philips Holdings USA, Inc., and Philips RS North America Holding Corporation.

see also New Mexico Action, ECF No. 1 (Notice of Removal) at ¶¶ 36-51.² Plaintiff's alternative request to remand this action to the United States District Court for the District of New Mexico should be denied because coordinated pretrial processes in this MDL are ongoing, including for Plaintiff. See In Re Wilson, 451 F.3d 161, 165 n.5 (3d Cir. 2006) (citing 28 U.S.C. § 1407(a)); Docket Management Order of Litigating Plaintiffs, ECF No. 2769.

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² Plaintiff's suggestion, which appears for the first time in the Renewed Motion, that Plaintiff was deprived a "hearing []or findings of fact" in the New Mexico Action prior to transfer, Renewed Motion p. 1 (citing Order of Reference to Magistrate Judge), adds nothing to the analysis. While the district judge referred Plaintiff's motion to remand and the Philips Defendants' motion to stay pending transfer to a magistrate judge for determination, New Mexico Action, ECF No. 11, jurisdiction over Plaintiff's case was transferred to the MDL before the magistrate judge scheduled or held any such proceedings.

Dated: March 14, 2025 Respectfully submitted,

/s/ John P. Lavelle, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on March 14, 2025, the foregoing document was electronically filed with the Clerk of the Court and served upon counsel of record through the Court's ECF filing system.

/s/ John P. Lavelle, Jr.	
John P. Lavelle, Jr	